APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,789	06/28/2001	Frank J. Ponzio, Jr.	4640-104	5974

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MATHEWS, COLLINS, SHEPHERD & GOULD, PA
100 THANET CR, SUITE 306
PRINCETON, NJ 08540

EXAMINER
OSMAN, RAMY M

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/894,789	PONZIO, JR., FRANK J.
Office Action Summary	Examiner	Art Unit
	Ramy M. Osman	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *71-90* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *71-90* is/are rejected.

7)☒ Claim(s) *72-80 and 82-90* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Status of the Claims

1.   This communication is in response to RCE amendment filed on November 28, 2005,

where applicant cancelled claims 37-70 and added new claims 71-90. Claims 71-90 are pending.

Response to Arguments

2.   The affidavit filed on 11/28/2005 under 37 CFR 1.131 has been considered for only

assisting the Examiner in better understanding the invention.

3.   Applicant's arguments filed 11/28/2005 have been fully considered but they are not

persuasive. Examiner appreciates applicants comments. However, the claims remain broad and

broadly read on QOS (Quality of Service) and TOS (Type of Service), and their associated topics

of packet classification and filtering. The claim language is broadly interpreted as cited below

since the limitations fail to explicitly detail the ADS as outlined in applicants specification.

Claim Objections

4.   Claims 72-80 objected to because of the following informalities: The claims have been

listed as depending from claim 70 (which was cancelled). Applicant is requested to renumber

the dependency of claims 72-80 to depend from independent claim 71.

5.   Claims 82-90 objected to because of the following informalities: The claims have been

listed as depending from claim 80 (which is a dependent claim). Applicant is requested to

renumber the dependency of claims 82-90 to depend from independent claim 81.

6.   Appropriate correction is required.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8.   Claims 71 and 81 recite the limitation "the result" in line 8. There is insufficient antecedent basis for this limitation in the claims.

9.   Claims 71 and 81 recite the limitation "the preexisting data" in line 8. There is insufficient antecedent basis for this limitation in the claims. It is unclear if there is a difference between the "preexisting data" and the "preexisting digital data" on line 9.

10.   Claims 71 and 81 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regards to lines 7-11, it is unclear how one can analyze content of data (which inherently involves accessing it) and then mention that the analysis was done without accessing the data. The wording of the claim is confusing and appears contradictory. Applicant must use explicit and detailed language to clearly explain the invention and its scope.

Claim Rejections - 35 USC § 102

11.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12.   Claims 71-90 rejected under 35 U.S.C. 102(e) as being anticipated by Pearson et al

(US Patent No 6,647,424).

13.   In reference to claims 71 and 81, Pearson teaches a method and corresponding system for

determining and signaling content quality of preexisting digital data between at least two digital

devices having a digital source and a digital receiver, the preexisting digital data having a

plurality of data records, each of the plurality of data records having a plurality of data fields, the

method comprising the following steps:

analyzing the content of preexisting digital data to determine quality of the content

(column 2 lines 5-17 & 60-67);

grading the results of the analysis without accessing the preexisting data, the grade

indicative of the quality of the content of the preexisting digital data using at least one or

more predefined sets of criteria (column 3 lines 30-35, column 4 lines 30-45, column 5 lines 1-15

& 29-61); and,

marking the grading results in at least one form without changing and without accessing

the preexisting data (column 3 lines 30-35, column 4 lines 30-45, column 5 lines 1-15 & 29-61);

wherein a first digital receiver dynamically accesses the mark of the preexisting digital

data without accessing the preexisting data to determine suitability for subsequent use of the

preexisting data (column 3 lines 30-35, column 4 lines 30-45, column 5 lines 1-15 & 29-61).

14.   In reference to claims 72 and 82, Pearson teaches the method and system of claims 71

and 81 respectively, further comprising the step of:

remarking the grading results in at least one form without changing and without

accessing the preexisting data, the remark indicative of the quality of the content of the

preexisting digital data using at least one or more different predefined sets of criteria; whereby

another digital receiver can independently determine suitability from the remark for another

subsequent use of the preexisting digital data without accessing the preexisting digital data

(column 3 lines 1-3 and column 5 lines 15-30).

15.   In reference to claims 73 and 83, Pearson teaches the method and system of claims 71

and 81 respectively, further comprising the steps of:

        regrading the results of the analysis without accessing the preexisting data; marking the

regrading results in at least one form without changing and without accessing the preexisting

data, the mark of the regrading results indicative of the quality of the content of the preexisting

digital data using at least one or more different predefined sets of criteria; whereby another

digital receiver can independently determine suitability from the mark of the regrading results for

another subsequent use of the preexisting digital data without accessing the preexisting digital

data (column 3 lines 1-3 and column 5 lines 15-30).

16.   In reference to claims 74 and 84, Pearson teaches the method and system of claims 71

and 81 respectively, further comprising the steps of: associating a portion of a file name to the

marking (column 2 lines 7-17, column 3 lines 1-35 and column 5 lines 7-40).

17.   In reference to claims 75 and 85, Pearson teaches the method and system of claims 71

and 81 respectively, wherein the quality of the content corresponds to a particular data

field of the plurality of data fields (column 2 lines 7-17, column 3 lines 1-35 and column 5 lines

7-40).

18.   In reference to claims 76 and 86, Pearson teaches the method and system of claims 71

and 81 respectively, wherein the quality of the content corresponds to a particular record of the

plurality of data records (column 2 lines 7-17, column 3 lines 1-35 and column 5 lines 7-40).

19.   In reference to claims 77 and 87, Pearson teaches the method and system of claims 71

and 81 respectively, wherein at least one of the one or more predefined sets of criteria is a

predefined function (column 2 lines 7-17, column 3 lines 1-35 and column 5 lines 7-40).

20.   In reference to claims 78 and 88, Pearson teaches the method and system of claims 71

and 81 respectively, wherein at least one of the one or more predefined sets of criteria accesses

an independent database (column 2 lines 7-17, column 3 lines 1-35 and column 5 lines 7-40).

21.   In reference to claims 79 and 89, Pearson teaches the method and system of claims 71

and 81 respectively, wherein at least one of the one or more predefined sets of criteria for

determining the quality of the content is an externally defined function (column 2 lines 7-17,

column 5 lines 7-40 and column 7 lines 5-55).

22.   In reference to claims 80 and 90, Pearson teaches the method and system of claims 71

and 81 respectively, wherein the mark is a numeric value, a color, or a Boolean (column 2 lines

7-17, column 4 lines 5-65 and column 6 lines 5-55).

Conclusion

23.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        Patent No US006944123B1, Moon, which teaches grading packets and communicating

        the graded packets.

Patent No US006977894B1, Achilles et al., which teaches classifying packets according

to TOS (Type of Service) indicators, modifying the packet with a watermark indicator and

transmitting the packet.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
February 3, 2006

ARIO ETIENNE
PRIMARY EXAMINER